

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF WEST VIRGINIA

3 United States of America,

4 Plaintiff,

5 VS.

CRIMINAL ACTION NO.

6 3:23-cr-6

7 Robert F. Crosson,

8 Defendant.

9 - - -

10 Proceedings had in the plea hearing of the above-styled  
11 action on October 23, 2023, before Honorable Robert W. Trumble,  
Magistrate Judge, at Martinsburg, West Virginia.

12 - - -

13 APPEARANCES:

14 On behalf of the United States of America:

15 DeMarr Moulton  
16 Assistant United States Attorney  
17 United States Attorney's Office  
700 Grant Street, Suite 4000  
18 Pittsburgh, PA 14219  
412.894.7434

19 On behalf of the Defendant:

20 Kristen M. Leddy  
21 Assistant Federal Public Defender  
Federal Public Defender's Office  
651 Foxcroft Avenue, Suite 202  
22 Martinsburg, WV 25401  
304.260.9421

23  
24 The defendant was present in person.

25 Proceedings recorded utilizing tape.  
Transcript produced by computer-aided transcription.

1 Monday Afternoon Session,  
2 October 23, 2023, 2:19 p.m.

3 - - -

4 THE CLERK: This is the case of the United States of  
5 America versus Robert F. Crosson, Criminal Number 3:23-CR-6.  
6 The government is represented by counsel, DeMarr Moulton. The  
7 defendant is present in person and by counsel, Kristen Leddy.

8 Are the parties ready to proceed?

9 MR. MOULTON: Yes, Your Honor.

10 MS. LEDDY: The defense is ready, Your Honor.

11 THE COURT: All right. Good afternoon, everyone.  
12 We're scheduled this afternoon for a nonbinding guilty plea to  
13 an indictment.

14 Ms. Leddy, it's my understanding that Mr. Crosson  
15 desires to plead guilty to the charge contained in Count 1 of  
16 the original indictment; is that correct?

17 MS. LEDDY: Yes, Your Honor.

18 THE COURT: All right. Thank you.

19 Mr. Crosson, would you please stand, raise your right  
20 hand, and be sworn by the clerk.

21 (Defendant sworn.)

22 THE COURT: If you would, sir, pull that microphone  
23 right over in front of you and speak directly into the  
24 microphone so we have a nice clear record. Can you do that for  
25 me?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Thank you.

3 Sir, do you understand that you are under oath, and  
4 if you answer any of my questions falsely, your answers may  
5 later be used against you in another prosecution for perjury or  
6 for making a false statement?

7 THE DEFENDANT: Yes.

8 THE COURT: Sir, do you understand that if you lie,  
9 it may result in a higher sentence for you?

10 THE DEFENDANT: Yes.

11 THE COURT: During the course of this hearing, I'm  
12 going to be asking you several questions. At any point you  
13 should feel free to ask questions, ask for an explanation if  
14 you do not understand my question, or ask me to pause the  
15 proceedings so that you may confer with your attorney before  
16 responding. Do you understand, sir?

17 THE DEFENDANT: Yes.

18 THE COURT: Would you state your full name for the  
19 record, please.

20 THE DEFENDANT: Robert Francis Crosson.

21 THE COURT: Mr. Crosson, how old are you?

22 THE DEFENDANT: 60.

23 THE COURT: And how much education have you had, sir?

24 THE DEFENDANT: Associate's degree.

25 THE COURT: So you can read, write, and understand

1 English?

2 THE DEFENDANT: Yes.

3 THE COURT: Have you recently been under the care of  
4 a doctor, a psychiatrist, or other medical professional for any  
5 serious physical or mental illness, including treatment for an  
6 addiction to drugs or alcohol?

7 THE DEFENDANT: Yes.

8 THE COURT: Does any of that treatment affect your  
9 ability to understand the indictment that was filed against  
10 you?

11 THE DEFENDANT: No.

12 THE COURT: Did it affect your ability to understand  
13 the terms and conditions of the plea agreement offered by the  
14 government?

15 THE DEFENDANT: No.

16 THE COURT: Does it affect your ability to  
17 communicate with your attorney concerning the charges contained  
18 in the indictment, any defenses thereto, or any of the terms or  
19 conditions contained in your plea agreement?

20 THE DEFENDANT: No.

21 THE COURT: Are you currently using any form of a  
22 controlled substance or any medication or alcohol that might  
23 affect your ability to understand this proceeding today?

24 THE DEFENDANT: No.

25 THE COURT: Ms. Leddy, you've been dealing with

1 Mr. Crosson. Do you have any reason to question his  
2 competence?

3 MS. LEDDY: No, Your Honor.

4 THE COURT: Mr. Crosson, are you here today to enter  
5 a guilty plea?

6 THE DEFENDANT: Yes.

7 THE COURT: Based on your responses, sir, I find that  
8 you are competent and capable of entering an informed plea.

9 Sir, my name is Robert Trumble. I am a United States  
10 Magistrate Judge. You have the right to have this plea taken  
11 by an Article III Judge, sometimes called a District Judge.  
12 Only you can give up that right, and I can only hear your plea  
13 if you agree to it by signing a waiver.

14 Now, I have on my bench a waiver that appears to bear  
15 your signature. Did you in fact sign this waiver, sir?

16 THE DEFENDANT: Yes.

17 THE COURT: Did you discuss it with Ms. Leddy before  
18 you signed it?

19 THE DEFENDANT: Yes.

20 THE COURT: And you understand the purpose of the  
21 waiver is to allow me to hear your plea today; is that correct?

22 THE DEFENDANT: Yes.

23 THE COURT: Sir, did anyone force or pressure you  
24 into signing this waiver?

25 THE DEFENDANT: No.

1 THE COURT: Ms. Leddy, is it your understanding that  
2 your client agrees to the waiver?

3 MS. LEDDY: Yes, Your Honor.

4 THE COURT: I find that the waiver has been properly  
5 executed and direct that it be filed.

6 Sir, do you understand that you have the right to be  
7 represented by counsel at every stage of these proceedings,  
8 including your sentencing, and if you cannot afford counsel,  
9 you have a right to have counsel appointed on your behalf?

10 THE DEFENDANT: Yes.

11 THE COURT: Ms. Leddy, do you or any member of your  
12 office or firm -- not a firm, but anybody in your office  
13 represent anyone, including codefendants, who might be  
14 interested in the outcome of this matter?

15 MS. LEDDY: No, Your Honor.

16 THE COURT: Thank you.

17 Mr. Crosson, do you understand that you have the --  
18 do you believe that you've had adequate time to discuss your  
19 case fully with Ms. Leddy?

20 THE DEFENDANT: Yes.

21 THE COURT: Has she been able to answer your  
22 questions about how best to proceed in this case?

23 THE DEFENDANT: Yes.

24 THE COURT: Is there anything your lawyer has not  
25 done which you've asked her to do?

1 THE DEFENDANT: No.

2 THE COURT: Are you completely satisfied with the  
3 legal advice that you have received from Ms. Leddy?

4 THE DEFENDANT: Yes.

5 THE COURT: Ms. Leddy, during the time that you've  
6 represented Mr. Crosson, has he been cooperative with you, sir?

7 MS. LEDDY: Yes, Your Honor.

8 THE COURT: Have you had adequate time to discover  
9 the government's case?

10 MS. LEDDY: We have.

11 THE COURT: Have you had adequate time to consider  
12 the possible defenses to the charge?

13 MS. LEDDY: Yes, Your Honor.

14 THE COURT: Do you know of any viable defense to the  
15 charge contained in Count 1 of the original indictment?

16 MS. LEDDY: No, Your Honor.

17 THE COURT: Have you had adequate time to consider  
18 the possible sentences that may be imposed?

19 MS. LEDDY: Yes, Your Honor.

20 THE COURT: Have you discussed all of those issues  
21 with your client?

22 MS. LEDDY: Yes, we have.

23 THE COURT: Thank you.

24 We have a plea agreement in this case.

25 Mr. Moulton, would you summarize the contents of the

1 plea agreement for the Court.

2 MR. MOULTON: Yes, Your Honor. The plea agreement is  
3 dated September 27th, 2023. A1 is basically Mr. Crosson is  
4 agreeing to plead guilty to Count 1, and A2 is the Count 2 will  
5 be dismissed, but he'll acknowledge the responsibility for the  
6 conduct.

7 A5 is the appellate waiver where Mr. Crosson can  
8 appeal if we -- if the United States appeals from the sentence,  
9 he may take that direct appeal from the sentence, or if the  
10 sentence he ends up getting exceeds the applicable statutory  
11 limits, or if it unreasonably exceeds the guideline range  
12 determined by the Court.

13 He also waives the right to file a 2255 attacking his  
14 conviction or sentence in any other collateral proceedings. It  
15 does not foreclose his waiver -- his appeal by raising a claim  
16 of ineffective assistance.

17 B1, again, is where we -- the United States agrees to  
18 dismiss Count 2, but it can be -- if he's permitted to withdraw  
19 his guilty plea, we can reinstate that charge. B3 is where the  
20 United States agrees to recommend the two-level adjustment for  
21 acceptance of responsibility.

22 C1 is the penalties, which is a term of imprisonment  
23 not more than ten years, \$250,000, a term of supervised release  
24 of not more than three years, and a special assessment of \$100.

25 C2 is the factual stipulation. I think you'll ask



1 for the facts later. I can read that now or later.

2 THE COURT: It's either you or me, Mr. Moulton. You  
3 can read it and we can refer back to it, so if you want to read  
4 the stipulated relevant conduct as contained in, what is that,  
5 C2?

6 MR. MOULTON: Yes, Your Honor. C2 reads, the parties  
7 hereby stipulate and agree to the following facts: On or about  
8 February 9, 2022, Robert F. Crosson called the office of United  
9 States Senator Joe Manchin located in Martinsburg, West  
10 Virginia, in the Northern District of West Virginia. The call  
11 was not answered, so Crosson left a voice mail stating, "Hey,  
12 you motherfucker, a bullet coming to your head soon. Mr. Coal  
13 Industry, how you doing? Build back better, huh? Filibuster,  
14 huh? You're a fucking pig."

15 On May 2, 2022, special agents with the FBI  
16 interviewed Crosson. During the interview, Crosson admitted to  
17 making the call and leaving the voice mail message. He  
18 acknowledged that he made the call while he was located in the  
19 state of New York, thus the threat was transmitted in  
20 interstate commerce.

21 Crosson knowingly and willfully made the call  
22 threatening Senator Manchin because he disagrees with Senator  
23 Manchin and his political views and official actions, thus  
24 Crosson made threats with the intent to impede or interfere  
25 with such while engaged in the performance of official duties

1 and with the intent to retaliate against such on account of the  
2 performance of official duties. Senator Manchin reasonably  
3 perceived the threat as a true threat. After the meeting with  
4 the FBI, Crosson made no further threats to Senator Manchin.

5 Those are the most salient terms of the plea  
6 agreement, Your Honor.

7 THE COURT: All right, Mr. Moulton. Thank you.

8 Ms. Leddy, did Mr. Moulton provide a fair summary of  
9 the agreement?

10 MS. LEDDY: Yes, Your Honor.

11 THE COURT: Mr. Crosson, do you understand what this  
12 agreement does?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand what this agreement  
15 requires of you?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you have any questions about your plea  
18 agreement?

19 THE DEFENDANT: I do not.

20 THE COURT: Mr. Moulton, would you tender the plea  
21 agreement to Ms. Leddy for her review and have you signed the  
22 plea agreement, sir?

23 MR. MOULTON: I've signed it, Your Honor.

24 THE COURT: You have.

25 MR. MOULTON: Yes, Your Honor.

1 THE COURT: All right. So Mr. Crosson, I'd like you  
2 to take a look at the plea agreement that was just handed to  
3 your attorney. First of all, how many pages are in the plea  
4 agreement?

5 THE DEFENDANT: Five.

6 THE COURT: Now, you signed that agreement. Is that  
7 your signature on the bottom of the fifth and last page of the  
8 plea agreement?

9 THE DEFENDANT: Yes, it is.

10 THE COURT: Mr. Crosson, were each of the paragraphs  
11 of the plea agreement discussed with you prior to your reaching  
12 an agreement with the government?

13 THE DEFENDANT: Yes.

14 THE COURT: Now, the plea agreement contains  
15 recommendations and stipulations. Do you understand that the  
16 Court must defer its decision to accept or reject  
17 recommendations and stipulations until it considers the  
18 presentence report that would be prepared in your case?

19 THE DEFENDANT: Yes.

20 THE COURT: And do you understand that the terms of  
21 the plea agreement are merely recommendations to the Court;  
22 that the Court can reject the recommendations and stipulations  
23 and you will not be allowed to withdraw your plea of guilty?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you understand that under a concept

1 known as relevant conduct, the Court may take into account any  
2 conduct, circumstances, and injuries relevant to the crime to  
3 which you are pleading guilty?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you understand that under the terms of  
6 the plea agreement, you and the government have stipulated to  
7 the information contained in the relevant conduct section which  
8 is on the fourth page of the agreement in paragraph C2 as read  
9 by Mr. Moulton. Do you understand that that's a part of the  
10 relevant conduct stipulation as set forth in your plea  
11 agreement?

12 THE DEFENDANT: Yes.

13 THE COURT: I also want to direct your attention to  
14 page 2 and paragraph A2, which provides that you acknowledge  
15 that the defendant's responsibility for the conduct charged in  
16 Count 2 of the indictment at Northern District of West Virginia  
17 Case Number 3:23-CR-6 and stipulates that the conduct charged  
18 in that count may be considered by the probation office or by  
19 the Court in calculating the guideline range and in imposing  
20 sentence.

21 THE DEFENDANT: Yes.

22 THE COURT: That's also a part of the relevant  
23 conduct stipulation as set forth in your plea agreement. You  
24 understand that; is that correct, sir?

25 THE DEFENDANT: Yes.

1           THE COURT: And you understand that the Court is not  
2 bound by these stipulations, and if the Court does not accept  
3 these stipulations, you do not have the right to withdraw your  
4 guilty plea?

5           THE DEFENDANT: Correct.

6           THE COURT: Sir, does the written plea agreement  
7 represent the complete agreement between you and the  
8 government?

9           THE DEFENDANT: Yes.

10          THE COURT: Is there anything that you and the  
11 government have agreed to that is not contained in that written  
12 document?

13          THE DEFENDANT: No.

14          THE COURT: Mr. Crosson, do you want me to accept the  
15 plea agreement?

16          THE DEFENDANT: Yes.

17          THE COURT: I find that the defendant, Mr. Crosson,  
18 understands and agrees with the terms contained in the plea  
19 agreement. I order the original plea agreement be filed as  
20 part of the record in this case.

21          Ms. Leddy, would you tender that to the clerk of  
22 court for me.

23          Mr. Crosson, have you received a copy of the  
24 indictment filed against you?

25          THE DEFENDANT: Yes.

1 THE COURT: Have you had an opportunity to read the  
2 indictment?

3 THE DEFENDANT: Yes.

4 THE COURT: Would you like me to read the indictment  
5 to you, or will you waive reading of the indictment in open  
6 court?

7 THE DEFENDANT: What would you say?

8 THE COURT: Would you like me to read the indictment  
9 to you, or will you waive reading the indictment in open court?

10 THE DEFENDANT: Waive.

11 THE COURT: Thank you, sir.

12 Sir, how do you plead to the charge contained in  
13 Count 1 of the original indictment?

14 THE DEFENDANT: Guilty.

15 THE COURT: Now, before I accept your plea, I want to  
16 make sure that there is a factual basis for your plea, that you  
17 understand the nature of the charge against you and the  
18 consequences of pleading guilty to the charge, that you  
19 understand the constitutional and other legal rights you will  
20 give up by pleading guilty, and that you are pleading guilty  
21 voluntarily.

22 Sir, you are charged in Count 1 of the original  
23 indictment with influencing a federal official by threat in  
24 violation of Title 18, United States Code, Section 115  
25 (a)(1)(B). Now, Title 18, United States Code, Section 115

1 (a) (1) (B) states in its pertinent part as follows: Whoever  
2 threatens to assault, kidnap, or murder a United States  
3 official, a United States judge, a federal law enforcement  
4 officer, or an official whose killing would be a crime under  
5 said section, with the intent to impede, intimidate, or  
6 interfere with such official judge or law enforcement officer  
7 while engaged in the performance of official duties with the  
8 intent to retaliate against such official, judge, or law  
9 enforcement officer on account of the performance of official  
10 duties shall be punished as provided in Subsection (b).

11 Title 18, United States Code, Section 115 (b) (4),  
12 also cited in the indictment, provides for penalties for  
13 violation of this section. It states as follows: A threat  
14 made in violation of this section shall be punished by a fine  
15 under this title, or imprisonment for a term of not more than  
16 ten years, or both, except that the imprisonment for a  
17 threatened assault shall not exceed six years.

18 Sir, do you understand the criminal statutes under  
19 which you've been charged?

20 THE DEFENDANT: Yes.

21 THE COURT: Now, if the government had to go to trial  
22 in this case, the government would have to prove the following  
23 elements of Title 18, United States Code, Section 115 (a) (1) (B)  
24 against you beyond a reasonable doubt: First, you threatened  
25 to assault or murder a person; second, at the time of the

1 alleged threat, the threatened person was a United States  
2 official; and third, you acted with the intent to impede,  
3 intimidate, or interfere with the US official while the  
4 official was engaged in the performance of official duties or  
5 with the intent to retaliate against such official on account  
6 of the performance of official duties.

7 Sir, do you understand the elements of the statute  
8 under which you've been charged?

9 THE DEFENDANT: Yes.

10 THE COURT: Now, sir, considering those definitions,  
11 do you consider yourself to be guilty of violating Title 18,  
12 United States Code, Section 115(a)(1)(B)?

13 THE DEFENDANT: Yes.

14 THE COURT: All right. Mr. Moulton, would you  
15 present your witness or proffer as to what the government would  
16 have been able to prove in this case.

17 MR. MOULTON: I'd refer back to Section C2 of the  
18 plea agreement, unless you want me to repeat it again, Your  
19 Honor.

20 THE COURT: So you're offering your relevant conduct  
21 stipulation as set forth on page --

22 MR. MOULTON: 4.

23 THE COURT: -- 4 in paragraph C2 as your proffer to  
24 set forth the factual basis as to what the government would  
25 have been able to prove; is that correct, sir?



1 MR. MOULTON: Yes, Your Honor.

2 THE COURT: All right. Thank you.

3 Ms. Leddy, do you have any objections to the proffer  
4 made by the government in the form of the relevant conduct  
5 statement as contained in paragraph C2 on page 4 of the plea  
6 agreement?

7 MS. LEDDY: No, Your Honor.

8 THE COURT: Mr. Crosson, do you have any objection to  
9 the proffer as stipulated to by the government?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: Mr. Crosson, is that evidence as set  
12 forth in the relevant conduct stipulation, is that  
13 substantially correct, sir?

14 THE DEFENDANT: Correct.

15 THE COURT: And did that proffer accurately involve  
16 your -- reflect your involvement in what occurred?

17 THE DEFENDANT: Yes.

18 THE COURT: All right, sir. Just for the record, I  
19 need you to explain to me what you did that makes you guilty of  
20 influencing a federal official by threat in violation of Title  
21 18, United States Code, Section 115(a)(1)(B).

22 THE DEFENDANT: I threatened Senator Joe Manchin of  
23 West Virginia with a bullet.

24 THE COURT: And your intent was to impede or  
25 intimidate or interfere with Mr. Manchin while he was an

1 official engaged in the performance of his duties?

2 THE DEFENDANT: Correct.

3 THE COURT: And this act occurred on or about  
4 February 9, 2022, at or near Berkeley County, in the Northern  
5 District of West Virginia?

6 THE DEFENDANT: Yes.

7 THE COURT: All right. Ms. Leddy, are you -- again,  
8 are you satisfied if this case went to trial, there would be no  
9 meritorious legal defense to the charge?

10 MS. LEDDY: I am satisfied, Your Honor.

11 THE COURT: And are you satisfied that Mr. Crosson's  
12 constitutional and other rights have been observed fully?

13 MS. LEDDY: Yes, Your Honor.

14 THE COURT: And do you concur in his now-stated  
15 intention to enter a plea of guilty to this charge?

16 MS. LEDDY: Yes, Your Honor.

17 THE COURT: Thank you.

18 Mr. Crosson, I find that there is a sufficient  
19 factual basis for your plea of guilty.

20 Now, sir, do you understand that you are pleading  
21 guilty to a felony offense, and if your plea is accepted, you  
22 will be adjudged guilty of that felony offense?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you also understand that such judgment  
25 may deprive you of valuable civil rights, such as your right to

1 vote, your right to hold public office, your right to serve on  
2 a jury, and your right to possess a firearm or gun of any kind?

3 THE DEFENDANT: Yes.

4 THE COURT: Have you discussed the statutory  
5 penalties that you are facing as a result of this charge?

6 THE DEFENDANT: Yes.

7 THE COURT: Then you understand that you expose  
8 yourself to a maximum penalty of a term of imprisonment of not  
9 more than ten years for a threat to kidnap or murder, and  
10 imprisonment for not more than six years for a threat to  
11 assault, a fine of not more than \$250,000, and a term of  
12 supervised release of not more than three years?

13 THE DEFENDANT: Yes.

14 THE COURT: Mr. Moulton, is there any mandatory  
15 minimum component to the sentence that the defendant exposes  
16 himself to by pleading guilty to Count 1 of the original  
17 indictment?

18 MR. MOULTON: No, Your Honor. I guess there is a  
19 technical mandatory of one year probation, but no imprisonment  
20 mandatory, Your Honor.

21 THE COURT: Is there any mandatory component, any  
22 mandatory minimum, that you're aware of under the statute?

23 MR. MOULTON: If he was going to get a probation  
24 sentence, he would have to get at least one year of probation.

25 THE COURT: Okay. And that's in -- Ms. Leddy.

1 MS. LEDDY: I believe if he receives a term of  
2 incarceration, Your Honor, then that term would have to be  
3 followed by at least one year of supervised release.

4 THE COURT: So there is a mandatory supervised  
5 release provision?

6 MS. LEDDY: I will double-check.

7 THE COURT: Let's get this cleared up here. Are you  
8 using probation interchangeably with supervised release and  
9 interchangeably with probation?

10 MR. MOULTON: No, Your Honor. There's no mandatory  
11 minimum imprisonment for this.

12 THE COURT: Any mandatory minimum. And if there's a  
13 mandatory minimum of supervised release or probation, that's  
14 what I'm trying to get at. I just need to understand -- I need  
15 to advise the defendant as to any mandatory minimum component  
16 of the sentence that he may receive.

17 MR. MOULTON: According to the PSR in this case, it  
18 just says that the supervised release cannot be more than three  
19 years.

20 THE COURT: All right. All right. Thank you.

21 We've had a Rule 11 hearing on this case before, and  
22 both -- in the prior case both of the -- the defendant was  
23 pleading guilty to both of the counts in the indictment, and I  
24 did not recall that there was any mandatory minimum components  
25 of either of the charges that were contained in the previous

1 indictment. And this is still the original indictment, only  
2 he's only pleading to one of the counts in the indictment. So  
3 if there is a mandatory minimum component, I'm not aware of any  
4 as it relates to these charges.

5 MR. MOULTON: I've concurred, Your Honor.

6 THE COURT: I understand that there's a difference  
7 between the maximum sentence. He can be imprisoned for ten  
8 years for one component, six years for another. He can be  
9 fined up to \$250,000, and he can be charged to a term of  
10 supervised release of not more than three years, but that's not  
11 a mandatory minimum. I'm looking for what the Court has to  
12 impose a sentence. I don't see any mandatory minimums.

13 MR. MOULTON: I agree with that, Your Honor.

14 MS. LEDDY: That's correct, Your Honor.

15 THE COURT: Thank you.

16 Mr. Crosson, I don't see that there's any mandatory  
17 minimum component to the sentence for the charge that's  
18 contained in Count 1. But do you understand that supervised  
19 release means that after imprisonment, you will be supervised  
20 by the probation office under conditions that will be set by  
21 this Court?

22 THE DEFENDANT: Yes.

23 THE COURT: And do you understand that if you violate  
24 the terms of your supervised release, the Court may revoke the  
25 term of your supervised release and order you to serve a term

1 in prison?

2 THE DEFENDANT: Yes.

3 THE COURT: And do you understand that you will be  
4 required to pay a special assessment of \$100 for having been  
5 convicted of a felony offense?

6 THE DEFENDANT: Yes.

7 THE COURT: And do you understand that you've agreed  
8 as a condition of your plea agreement to pay this special  
9 assessment within 40 days following the entry of your plea?

10 THE DEFENDANT: Yes.

11 THE COURT: Sir, do you understand that as part of  
12 your fine, you could be required to pay the cost of  
13 incarceration and/or the cost of supervision upon release?

14 THE DEFENDANT: Yes.

15 THE COURT: Have you discussed those costs with  
16 Ms. Leddy?

17 THE DEFENDANT: Yes.

18 THE COURT: Then you understand that it now costs  
19 \$3,688 per month per person for prison, \$371 per month per  
20 person for supervised release, and \$2,980 per month per person  
21 for a residential reentry center?

22 THE DEFENDANT: Yes.

23 THE COURT: Sir, do you understand that the Court has  
24 the authority to order restitution in your case?

25 THE DEFENDANT: Yes.

1 THE COURT: And if applicable, do you understand that  
2 the government may seek forfeiture in your case?

3 THE DEFENDANT: Yes.

4 THE COURT: And do you understand that by pleading  
5 guilty, if you are not a citizen of the United States, you may  
6 be removed from the United States, denied citizenship, and  
7 denied admission to the United States in the future?

8 THE DEFENDANT: Yes.

9 THE COURT: Now, sir, do you understand that the  
10 United States Sentencing Guidelines play an important role in  
11 determining a sentence in your case?

12 THE DEFENDANT: Yes.

13 THE COURT: Have you and Ms. Leddy discussed the  
14 application of the US Sentencing Guidelines to your case?

15 THE DEFENDANT: Yes, we have.

16 THE COURT: Do you understand that the Court will not  
17 be able to determine the applicable advisory guideline sentence  
18 for your case until after the presentence investigation report  
19 has been completed and you and the government have had an  
20 opportunity to review it and to challenge the facts determined  
21 by the probation officer and the application of the guidelines  
22 recommended by the probation officer?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand that the sentence  
25 imposed upon you by the Court may be different from any

1 estimate Ms. Leddy may have given you or what you thought it  
2 would be?

3 THE DEFENDANT: Yes.

4 THE COURT: Sir, do you understand that the Court  
5 must calculate the applicable advisory US Sentencing Guidelines  
6 and consider that range, and the Court must also consider  
7 possible departures under the US Sentencing Guidelines and  
8 other sentencing factors under Title 18, United States Code,  
9 Section 3553(a)?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that the Court is not  
12 bound by the advisory guideline range and has the authority to  
13 impose a sentence that is more severe or less severe than the  
14 sentence called for by the guidelines?

15 THE DEFENDANT: Yes.

16 THE COURT: Sir, do you understand that parole has  
17 been abolished, and that you will not be released on parole if  
18 you are sentenced to prison?

19 THE DEFENDANT: Yes.

20 THE COURT: Sir, do you understand that even if you  
21 do not like the sentence imposed upon you by the Court, you  
22 will still be bound by your plea and will have no right to  
23 withdraw it?

24 THE DEFENDANT: Yes.

25 THE COURT: Sir, do you also understand that you have



1 the right to testify at your sentencing hearing, should you so  
2 desire?

3 THE DEFENDANT: Yes.

4 THE COURT: And Mr. Crosson, do you understand that  
5 in your plea agreement you have agreed to give up your right to  
6 appeal your sentence under many circumstances?

7 THE DEFENDANT: Yes.

8 THE COURT: Sir, everyone found guilty of a crime in  
9 federal court in this district has the right to appeal their  
10 conviction and sentence to the Fourth Circuit Court of Appeals  
11 in Richmond, Virginia. In Richmond, a three-judge panel  
12 reviews the conviction and sentence to see if it was done  
13 correctly. Do you understand that pursuant to the terms of  
14 paragraph A5 of your plea agreement that you have waived your  
15 right to take a direct appeal from your conviction or sentence  
16 under Title 28, United States Code, Section 1291, or 18, United  
17 States Code, Section 3742. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Now, there are some exceptions. An  
20 exception to that waiver would be that if the United States  
21 appeals from the sentence, you may take a direct appeal from  
22 the sentence, and the second is if the sentence exceeds the  
23 applicable statutory limits set forth in the United States Code  
24 or the sentence unreasonably exceeds the guideline range  
25 determined by the Court under the sentencing guidelines, you

1 may take a direct appeal from the sentence.

2 THE DEFENDANT: Yes.

3 THE COURT: Other than those exceptions, do you  
4 understand that you only have the right to appeal your guilty  
5 plea if you believe it was unlawful or involuntary or that  
6 there was some other fundamental defect in the proceedings that  
7 was not waived in the plea agreement itself?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: However, you agree that your guilty plea  
10 today is lawful and voluntary and that there has been no  
11 fundamental defect in the proceedings that you are aware of; is  
12 that correct, sir?

13 THE DEFENDANT: Correct.

14 THE COURT: Do you also understand that everyone has  
15 the right to challenge their conviction or sentence or the  
16 manner in which it was determined in any postconviction  
17 proceeding, sometimes called a habeas corpus petition or  
18 collateral attack, under Title 28, United States Code, Section  
19 2255?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that pursuant to the  
22 terms of paragraph A5 of the plea agreement that you have  
23 waived your right to challenge -- have waived your right to  
24 file a motion to vacate sentence under Title 28, United States  
25 Code, Section 2255 attacking your conviction or the sentence or

1 the right to file any other collateral proceeding attacking  
2 your conviction or sentence?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that your only legal  
5 remedies on appeal or collateral attack are for claims of  
6 ineffective assistance of counsel or prosecutorial misconduct?

7 THE DEFENDANT: Yes.

8 THE COURT: However, you agree that there is  
9 currently no known evidence of ineffective assistance of  
10 counsel or prosecutorial misconduct; sir?

11 THE DEFENDANT: Correct.

12 THE COURT: Have you discussed the waiver of these  
13 important appellate rights with Ms. Leddy?

14 THE DEFENDANT: Yes.

15 THE COURT: Having done so, do you still wish to  
16 waive these rights, sir?

17 THE DEFENDANT: Yes.

18 THE COURT: Ms. Leddy, do you believe that  
19 Mr. Crosson fully understands the importance of the rights he  
20 is waiving?

21 MS. LEDDY: Yes, Your Honor.

22 THE COURT: Mr. Crosson, do you understand that  
23 should you find some basis on which to file an appeal, with few  
24 exceptions, any notice of appeal must be filed within 14 days  
25 of judgment being entered in your case?

1 THE DEFENDANT: Yes.

2 THE COURT: Mr. Crosson, I find that you understand  
3 the nature of the charge and the consequences of a guilty plea  
4 to the charge.

5 Now, sir, do you understand that you have the right  
6 to continue to plead not guilty to this charge?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you also understand that by pleading  
9 guilty, you give up your right to a speedy and public trial by  
10 a jury?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that by pleading  
13 guilty, you give up your right to force the government to come  
14 forward with witnesses and evidence against you?

15 THE DEFENDANT: Yes.

16 THE COURT: Sir, do you understand that you would  
17 have been presumed innocent until the government presented  
18 enough evidence to satisfy both the judge and a jury beyond a  
19 reasonable doubt of your guilt?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that when you admit  
22 your guilt, as you have here, you relieve the government of the  
23 burden of proving your guilt?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you understand that you would have the

1 right to the assistance of counsel at trial?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that you and your  
4 attorney would have had the right to confront and cross-examine  
5 your accusers and to test the truth of what they said?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand by pleading guilty, you  
8 give up that right?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand that had you desired to  
11 go to trial and wished to call witnesses, that you would have  
12 been entitled to the services of the US Marshal to bring  
13 witnesses to court under subpoena?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that by pleading  
16 guilty, you give up your right to call witnesses except at your  
17 sentencing hearing?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand that you would have had  
20 the right to move to suppress, or keep away from the jury's  
21 hearing and consideration, any evidence of any nature that had  
22 been illegally or unlawfully obtained?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand that had you desired to  
25 go to trial, that you would have the right to testify at trial?

1 THE DEFENDANT: Yes.

2 THE COURT: However, you understand that you could  
3 not have been compelled or forced to testify at trial?

4 THE DEFENDANT: Correct.

5 THE COURT: Do you understand that you would have the  
6 right to go to trial and remain silent, that is, not to take  
7 the witness stand or call any witnesses or present any evidence  
8 whatsoever on your own behalf?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand that the Court would  
11 have instructed the jury that they could not convict you  
12 because you'd exercised your constitutional right to remain  
13 silent, but could only base their decision on an offer of proof  
14 from the government?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that you give up your  
17 right to a unanimous verdict from a jury?

18 THE DEFENDANT: Yes.

19 THE COURT: Ms. Leddy, do you believe that  
20 Mr. Crosson understands the consequences of his guilty plea?

21 MS. LEDDY: Yes, Your Honor.

22 THE COURT: Thank you.

23 Mr. Crosson, I find that you understand the  
24 constitutional and other legal rights you are giving up by  
25 pleading guilty.

1           Now, sir, knowing all of those things, do you still  
2 wish to plead guilty at this time?

3           THE DEFENDANT: Yes.

4           THE COURT: Sir, has any person forced you,  
5 threatened you, coerced you, intimidated you, or talked you  
6 into entering a guilty plea against your will?

7           THE DEFENDANT: No.

8           THE COURT: Are you acting voluntarily and of your  
9 own free will in entering this guilty plea?

10          THE DEFENDANT: Yes.

11          THE COURT: Sir, are you pleading guilty because you  
12 are guilty of the crime charged in Count 1 of the original  
13 indictment?

14          THE DEFENDANT: Yes.

15          THE COURT: Sir, has anyone promised you or told you  
16 something that is different from what I have told you today to  
17 get you to plead guilty?

18          THE DEFENDANT: No.

19          THE COURT: Is your plea the result of any promises  
20 other than those promises specifically contained in your  
21 written plea agreement?

22          THE DEFENDANT: No.

23          THE COURT: Are you pleading guilty to protect  
24 anyone, sir?

25          THE DEFENDANT: No.

1 THE COURT: Has anyone promised or predicted the  
2 exact sentence which will be imposed upon you in this case?

3 THE DEFENDANT: No.

4 THE COURT: Do you understand that at this time, no  
5 one could know the exact sentence which would be imposed in  
6 your case?

7 THE DEFENDANT: Correct.

8 THE COURT: Sir, have you been able to fully  
9 understand what is going on in these proceedings today?

10 THE DEFENDANT: Yes.

11 THE COURT: Based on your responses, sir, I find that  
12 your guilty plea is voluntary. Mr. Crosson, at this time, do  
13 you have any questions or second thoughts about entering a plea  
14 of guilty to this charge?

15 THE DEFENDANT: I do not.

16 THE COURT: Would you please stand for me.

17 How do you plead to Count 1 of the original  
18 indictment charging you with influencing a federal official by  
19 threat?

20 THE DEFENDANT: Guilty.

21 THE COURT: Thank you. Please be seated.

22 In the case of the United States versus Robert F.  
23 Crosson, I find that Mr. Crosson is fully competent and capable  
24 of entering into an informed plea. I find that there is a  
25 sufficient factual basis for his plea of guilty. I find that



1 the defendant understands the nature of the charge and the  
2 consequences of guilty plea to the charge. I find that  
3 Mr. Crosson understands the constitutional and other legal  
4 rights he is giving up because of his plea. And I find that  
5 his plea is voluntary.

6 While I defer accepting the terms of the plea  
7 agreement and adjudging the defendant guilty to the sentencing  
8 court, I do accept the plea of guilty to Count 1 of the  
9 original indictment.

10 Now, sir, the sentencing court must consider the  
11 following factors when determining the sentence that you will  
12 receive: the nature and circumstances of the offense; your  
13 history and characteristics; the necessity of punishing you,  
14 deterring you, protecting the public from you, or providing you  
15 with training, medical care, or other treatment; the kinds of  
16 sentences and the sentencing range established by the  
17 sentencing guidelines; the need to give defendants with similar  
18 criminal records similar sentences; and the need to provide  
19 restitution to any victims of the offense.

20 In order to help the sentencing court consider these  
21 factors, the probation office is required to conduct a  
22 presentence investigation of you and submit a report to the  
23 sentencing court. The information in this report might have an  
24 impact on the sentence you ultimately receive. I strongly  
25 encourage you to discuss this process and your participation in

1 the same with Ms. Leddy.

2 Understand, sir, that you must not commit any crimes  
3 between now and sentencing, because there are additional  
4 punishments that may be imposed for committing additional  
5 crimes. Do you understand, sir?

6 THE DEFENDANT: Yes.

7 THE COURT: Pursuant to Section 6A1 of the United  
8 States Sentencing Guidelines, I order the probation office to  
9 conduct a presentence investigation of Mr. Crosson, prepare a  
10 draft presentence investigation report, and disclose its  
11 contents to the government and Mr. Crosson.

12 I further direct that the probation officer and all  
13 parties comply with Federal Rule of Criminal Procedure 32 and  
14 US Sentencing Guideline Section 6A1.2 regarding deadlines for  
15 disclosure, objection, departure motion, or sentencing  
16 statement requirements. The sentencing court will set this  
17 matter for sentencing following receipt of the presentence  
18 report.

19 Ms. Leddy, Mr. Moulton, if either anticipate a  
20 lengthy sentencing hearing, please notify the sentencing court  
21 in advance so that an adequate amount of time can be set aside  
22 for that hearing. And Judge Groh normally sets her sentencings  
23 for approximately 45 minutes, so if you anticipate taking a  
24 longer period of time, appropriate arrangements should be made  
25 through her chambers in advance.

1 MR. MOULTON: Understood, Your Honor.

2 MS. LEDDY: Duly noted, Your Honor.

3 THE COURT: All right, counsel, anything further we  
4 need to address before we adjourn today?

5 MR. MOULTON: Nothing from the government, Your  
6 Honor.

7 MS. LEDDY: Nothing from the defense.

8 THE COURT: All right. Mr. Crosson, before you leave  
9 the building today, I need you to report to the probation  
10 office on the third floor of this building.

11 THE DEFENDANT: Correct.

12 THE COURT: They've requested that you appear up  
13 there, so that will be the last thing that we need to take care  
14 of before we adjourn. So with that in mind, the defendant is  
15 released pursuant to the order setting conditions of release  
16 and we stand adjourned. Thank you.

17 (Proceedings concluded at 2:51 p.m.)

18

19

20

21

22

23

24

25

## 1 CERTIFICATE

2  
3 I, Cindy L. Knecht, Registered Professional Reporter  
4 and Official Reporter of the United States District Court for  
5 the Northern District of West Virginia, do hereby certify that  
6 the foregoing is a true and correct transcript to the best of  
7 my ability of the taped proceedings had in the above-styled  
8 action on October 23, 2023, as reported by me in stenotypy.

9 I certify that the transcript fees and format comply with  
10 those prescribed by the Court and Judicial Conference of the  
11 United States.

12 Given under my hand this 28th day of May 2024.

13 /s/Cindy L. Knecht

14 \_\_\_\_\_  
15 Cindy L. Knecht, RMR/CRR  
16 Official Reporter, United States  
17 District Court for the Northern  
18 District of West Virginia  
19 - - -  
20  
21  
22  
23  
24  
25